

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Office Action dated May 28, 2004. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

Status of the Claims

As outlined above, claims 13 - 31 are pending in the application. Claims 1 - 12 were previously canceled without prejudice or disclaimer. Applicants submit that no new matter is being introduced through the submission of this response.

Prior Art Rejections

Claims 13 - 15, 17, 22 - 25 and 27 - 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,731,446 to Ikeda et al. (hereinafter "Ikeda") in view of U.S. Patent No. 6,025,970 to Cheung (hereinafter "Cheung"), and claims 26 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda in view of Cheung, and further in view of U.S. Patent No. 6,490,111 to Sacks (hereinafter "Sacks"). These rejections have been carefully considered, but are most respectfully traversed.

Applicants hereby contend that Ikeda is disqualified as prior art since the U.S. filing date of Ikeda, February 2, 2001, was "later" than (not "before") the earliest effective filing date (Japanese priority date) of the application, namely November 10, 2000. Under the Hilmer I doctrine (MPEP. 2136.03), Applicants' JP priority date may be used to predate the Ikeda US filing date, even if Ikeda's JP priority date predated the application:

A U.S. patent reference is effective prior art as of its U.S. filing date. 35 U.S.C. 119(a)-(d) and (f) does not modify section 102(e) which is explicitly limited to certain references "filed in the United States before the invention thereof by the applicant" (emphasis added). Therefore, the foreign priority date of the reference under 35 U.S.C. 119(a)-(d) and (f) cannot be used to antedate the application filing date. In contrast, applicant may be able to overcome the 35 U.S.C. 102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. 119 priority date which is earlier than the reference's U.S. filing date. In re Hilmer, 359 F.2d 859, 149 USPQ 480 (CCPA 1966) (Hilmer I) (Applicant filed an application with a right of priority to a German application. The examiner rejected the claims over a U.S. patent to Habicht based on its Swiss priority date. The U.S. filing date of Habicht was later than the application's German priority date. The court held that the reference's Swiss priority date could not be relied on in a 35 U.S.C.

102(e) rejection. MPEP. 2136.03.

A copy of the English translation of the JP priority document of the present application is enclosed herewith to prove that the patentable features were in Applicants' possession since November 10, 2000.

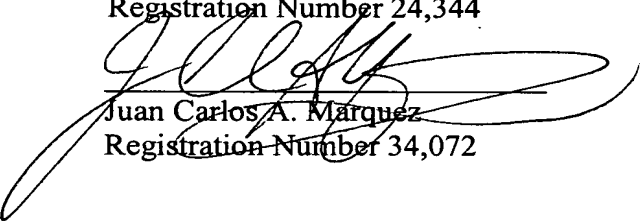
Conclusion

In view of all the above, Applicants respectfully submit that Ikeda is not a prior art reference against the application. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application as amended is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicant's undersigned representative at the address and phone number indicated below.

Respectfully submitted,

Stanley P. Fisher
Registration Number 24,344



Juan Carlos A. Marquez
Registration Number 34,072

REED SMITH LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, Virginia 22042
(703) 641-4200

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SPF/JCM/JT